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**IN THE
COURT OF APPEALS OF INDIANA**

HUGH ALLEN HEDDEN,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 73A01-0701-CR-65

APPEAL FROM THE SHELBY CIRCUIT COURT
The Honorable Charles D. O'Connor, Judge
Cause No. 73C01-0512-FB-14

October 25, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

FRIEDLANDER, Judge

Hugh Allen Hedden appeals his convictions for Aggravated Battery,¹ a class B felony, and Battery Resulting in Serious Bodily Injury,² a class C felony, challenging the sufficiency of the evidence as the sole issue on appeal.

We affirm.

The facts most favorable to the convictions reveal that on December 12, 2005, Forrestine Rafferty, Danielle Smith, Chris Shepard, and Terry Wickliff were at Rafferty's apartment talking and drinking around the kitchen table. Hedden arrived later in the evening and also socialized and drank with the others. At some point, Hedden and Smith became involved in an argument. Rafferty, who wanted to go to bed, ordered Hedden "to get out of [her] house." *Transcript* at 315. Hedden then picked up a chair and hit Rafferty in the head with it such that one of the chair legs broke off. Hedden subsequently grabbed Rafferty and punched her in the face with his right fist and then, from a close distance, threw the broken chair leg at her, striking her in the head again. Rafferty fell to the floor, "lifeless", defenseless, and bleeding from the eye. *Id.* at 248. As Rafferty lay on the floor "knocked out" and not moving, Hedden stood next to her with his foot over her head. *Id.*

Shepard interceded on Rafferty's behalf and became involved in a physical confrontation with Hedden. In the meantime, Smith called the police. Shepard, Wickliff, and Hedden then left the scene before police arrived. After Hedden left the scene, he

¹ Ind. Code Ann. § 35-42-2-1.5 (West, PREMISE through 2007 Public Laws approved and effective through April 8, 2007).

² I.C. § 35-42-2-1(a)(3) (West, PREMISE through 2007 Public Laws approved and effective through April 8, 2007).

related to a neighbor upon the neighbor's inquiry that he had "just beat the hell out of somebody." *Id.* at 306.

Officers Shawn Bennett and Jeremiah Walton of the Shelbyville Police Department were dispatched to Rafferty's apartment in response to a call about a battery. Upon entry into the residence, Officer Bennett encountered Rafferty and Smith and observed that Rafferty had "very significant" injuries to her face, was bleeding profusely, and appeared to have a broken nose and the start of a black eye. *Id.* at 10. Officer Bennett immediately called for the medics. When Officer Bennett asked Rafferty what had happened, Rafferty stated that "Hedden struck her in the face, had punched her in the face and had also hit her with a chair leg." *Id.* at 15. Rafferty also told Officer Walton that Hedden hit her in the face and then ran out the back door.

Rafferty was taken to the hospital where it was determined that she suffered multiple fractures to her right orbital bone and nasal structures. Rafferty also had blood behind her right eye causing the eye to push forward. Rafferty's injuries were very painful and required two surgeries. She still suffers from significant memory loss, blurred vision, and eye strain affecting her left eye, her nose is crooked, and she endures frequent headaches. Due to the pain she experienced, Rafferty was prescribed narcotics for several months after she sustained her injuries. Rafferty, a mother, described the pain as more painful than childbirth.

On December 14, 2005, the State charged Hedden with class B felony aggravated battery and class C felony battery resulting in serious bodily injury. Hedden was subsequently alleged to be a habitual offender. At the conclusion of a three-day jury trial,

held November 13 to 15, 2006, Hedden was found guilty as charged. On December 11, 2006, the trial court sentenced Hedden to the maximum of twenty years on the B felony aggravated battery conviction and enhanced that sentence by an additional twenty-five years for the habitual offender determination, thereby resulting in a total aggregate sentence of forty-five years.³

Upon appeal, Hedden argues that the evidence is insufficient to support his convictions for aggravated battery and battery resulting in serious bodily injury. When considering a challenge to the sufficiency of evidence to support a conviction, we respect the fact-finder's exclusive province to weigh conflicting evidence and therefore neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the verdict, and “must affirm ‘if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.’” *Id.* at 126 (*quoting Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)). The uncorroborated testimony of one witness may be sufficient by itself to sustain a conviction on appeal. *Pinkston v. State*, 821 N.E.2d 830 (Ind. Ct. App. 2004), *trans. denied*.

To convict Hedden of B felony aggravated battery, the State was required to prove beyond a reasonable doubt that Hedden (1) knowingly or intentionally (2) inflicted injury (3) on a person (4) that created a substantial risk of death or caused serious permanent

³ Although the trial court entered a judgment of conviction for battery resulting in serious bodily injury, a class C felony, the trial court imposed no sentence on that offense.

disfigurement or protracted loss or impairment of the function of a bodily member or organ. *See* I.C. § 35-42-2-1.5. To convict Hedden of C felony battery resulting in serious bodily injury, the State was required to prove beyond a reasonable doubt that Hedden (1) knowingly or intentionally (2) touched (3) another person (4) in a rude, insolent, or angry manner (5) resulting in serious bodily injury to another person. *See* I.C. § 35-42-2-1.

We begin by noting that Hedden does not dispute that Rafferty suffered severe injuries to her right eye and to her nose, that she experienced great pain and anguish from her injuries, that she suffered through two corrective surgeries, and that she was prescribed pain medications for months following the injuries. Nor does Hedden claim that he was not present at the scene or that someone else committed the crimes. Rather, Hedden argues that the evidence was insufficient to support his convictions because the accounts of the witnesses were inconsistent, the credibility of the witnesses was impugned by the fact that they were intoxicated at the time the incident occurred, and there was no physical evidence to corroborate Smith's version of events wherein she described that Hedden first hit Rafferty on the head with the chair.

Here, the jury was asked to consider the various accounts of the witnesses and was made aware that the victim and witnesses had been drinking prior to the incident. Any inconsistencies or variations in testimony goes to the weight and credibility of the testimony of the witnesses, the resolution of which was for the trier of fact. *Edwards v. State*, 753 N.E.2d 618 (Ind. 2001). Likewise, Hedden's claim that the State failed to present physical evidence corroborating every aspect of Smith's version of events goes to

her credibility and the weight to be afforded to her testimony. Hedden's arguments are simply blatant invitations for this court to reweigh the evidence and judge the credibility of the witnesses, a task which this court does not undertake on appeal. As set forth above, the facts in the light most favorable to Hedden's convictions reveal that Hedden perpetrated the brutal attack on Rafferty, resulting in permanent disfigurement and serious bodily injury to Rafferty. The evidence is sufficient to support Hedden's convictions for B felony aggravated battery and C felony battery resulting in bodily injury.

Judgment affirmed.

SHARPNACK, J., and RILEY, J., concur.